

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

BENJAMIN WILLIAM FAWLEY,

Plaintiff,

v.

No. CV 11-61 BB/CG

JOE WILLIAMS, et al.,

Defendants.

ORDER

THIS MATTER is before the Court on Plaintiff Benjamin Fawley's *Motion for Leave to File This and Two Attached Motions Without Providing Service of a Paper Copy to Defendants But Asks the Court to Serve Defendants by the CM/ECF System*, (Doc. 27), *Motion for Expansion of Time to Respond*, (Doc. 28), *Motion for the Court's Opinion of the Definition of Legal Mail that Prison Officials Must Open in Front of Inmate*, (Doc. 29), and *Defendants' Response to Plaintiff's Motion Document 28*, (Doc. 31). Having considered the motions, the relevant law, and otherwise being fully advised in the premises, the Court finds Plaintiff's motions not to be well-taken and will be **DENIED**.

Plaintiff's *Motion for Leave to File*, (Doc. 27), requests that he be excused from serving copies of his *Motion for Expansion of Time*, (Doc. 28), and *Motion for the Court's Opinion*, (Doc. 29), on the Defendants. (Doc. 27 at 1). He states that he is unable to serve copies of the motions because his facility is on "lockdown" and "obtaining legal copies will take longer than what I am guessing my deadline to file a response to Defendant's answer is." (*Id.*). Notwithstanding this assertion, it appears that Defendants received copies of the motions since they have filed a response to one of them. (See Doc. 31). Plaintiff's motion

will be denied as moot.

Plaintiff's *Motion for Expansion of Time* requests that the Court extend the time for him to file a reply to the Defendants' answer. (Doc. 28 at 1-2). However, as noted by Defendants in their *Response*, (Doc. 31), the Federal Rules of Civil Procedure do not contemplate a reply to an answer unless the Court specifically orders that one be filed. FED. R. CIV. P. 7(a)(7); FED. R. CIV. P. 12(a)(C). The Court has not ordered Plaintiff to file a reply to the Defendants' answer and Plaintiff's *Motion for Expansion of Time* will therefore be denied.

As the name suggests, Plaintiff's *Motion for the Court's Opinion of the Definition of Legal Mail that Prison Officials Must Open in Front of Inmate* requests that the Court opine on what constitutes legal mail. (Doc. 29 at 1 ("Plaintiff . . . ask[s] the Court for an opinion on the definition of legal mail, in regards to what legal mail prison officials must open with an inmate being there.")). Plaintiff believes the Defendants' answer to his complaint was opened outside of his presence, though he is not sure whether prison officials read the answer. (*Id.*). He also claims that prison officials confiscated several pages of the answer following a search of his cell. (Doc. 28 at 1; Doc. 29 at 1). Plaintiff seeks an opinion on whether Defendants have violated his Constitutional rights.

Article III of the Constitution limits the adjudicatory powers of federal courts to actual cases and controversies. Federal courts are prohibited from providing mere advisory opinions. *Clark v. State Farm Mut. Auto. Ins. Co.*, 509 F.3d 1134, 1138 (10th Cir. 2011); *Chrisman v. C.I.R.*, 82 F.3d 371, 373 (10th Cir. 1996). Therefore, Plaintiff's *Motion for the Court's Opinion* will be denied. If Plaintiff believes that Defendants have violated his constitutional right to access the courts by intercepting and reading his legal mail, he may

seek to amend his complaint to include those claims pursuant to FED. R. CIV. P. 15(a)(2). Inasmuch as Plaintiff's states that several pages of the Defendants' answer have been confiscated, the Court will order the Clerk of the Court to mail a second copy of the Defendants' answer to Plaintiff.

IT IS THEREFORE ORDERED that Plaintiff Benjamin Fawley's *Motion for Leave to File This and Two Attached Motions Without Providing Service of a Paper Copy to Defendants But Asks the Court to Serve Defendants by the CM/ECF System*, (Doc. 27), be **DENIED AS MOOT**.

IT IS FURTHER ORDERED that Plaintiff's *Motion for Expansion of Time to Respond*, (Doc. 28), and *Motion for the Court's Opinion of the Definition of Legal Mail that Prison Officials Must Open in Front of Inmate*, (Doc. 29), be **DENIED**.

IT IS FURTHER ORDERED that the Clerk of the Court mail a second copy of the Defendants' answer, (Doc. 25), to Plaintiff at his current address.

A handwritten signature in black ink, appearing to read 'Carmen E. Garza', with a long horizontal line extending to the right.

THE HONORABLE CARMEN E. GARZA
UNITED STATES MAGISTRATE JUDGE